IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1219 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SADHURAM SHARMA & 21 - Petitioner(s)

Versus

TENSILE STEEL LIMITED - Respondent(s)

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Appearance :

MR RD RAVAL for Petitioner No(s).: 1,2,3,4,5,
6,7,8,9,10,11,12,13,14,
15,16,17,18,19,20,21,22.

MRS HARINA M BHATT for MR MANISH R BHATT for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 04/07/2005

ORAL JUDGMENT

1. This petition is directed against the judgment and award dated 14th May, 1998 passed the Labour Court, Baroda Reference [L.C.V.] Nos. 407 to 409 of 1981, whereby the said

Reference was rejected.

2. The short facts of the case are that the petitioner workmen were working as a regular employees with the respondent Company. Thereafter the respondent Company closed down unit no.2 and shifted the petitioner workmen to unit no. 1. Though there was adequate work to the extent of requiring over time, the management of the respondent Company, with a view to harass the petitioner workmen kept on giving lay off to the petitioner workmen.

2.1. Being aggrieved by the said action of the management of the respondent Company, the petitioner workmen with a view to protest against the said action of the management, tendered their resignation. However, the petitioner workmen on 24th March, 1981 tender the withdrawal letter directly to the Company, which was not accepted by the respondent Company. The respondent Company vide letter dated 28th March, 1991 dispatched the acceptance of resignation letters of the petitioner workmen.

2.2. Feeling aggrieved by the said letter, the petitioner workmen approached the Head Office of the respondent Company whereby, assurance to take them back in service was given. It is the case of the petitioner workmen that though assurance was given, the respondent Company has not reinstated them in service. Thus, the petitioner workmen raised an industrial dispute which was ultimately referred to the Labour Court, for adjudication. The Industrial Tribunal after considering the case on merits, rejected the said Reference. Hence, this petition.

3. Mr. Raval learned advocate for the petitioner workmen has contended that the Labour Court has failed to appreciate the fact that the petitioner workmen have not tendered their resignation willingly.

4. I have heard the learned counsel for the parties and have perused the materials placed on record. Having perused the impugned order it transpires that the respondent Company has not forcefully taken the resignation from the petitioner workmen, but the petitioner workmen has in order to get the amount of gratuity and other benefits had willingly tendered their resignation. Apart from that the respondent Company is closed, therefore, I am of the opinion that no fruitful purpose would be served by disturbing the award passed by the Labour Court at this stage. I am in complete agreement with the reasonings given by the Labour Court and find no reason to interfere in this petition.

5. In above view of the matter, the petition is dismissed. The impugned order passed by the Labour Court is confirmed. Rule is discharged with no order as to costs.

[K.S. JHAVERI, J.]

/phalguni/